IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2569 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GH VIJAPURA & CO

Versus

STATE OF GUJARAT

Appearance:

MR PS PATEL for MR SB DANDWANI for Petitioner

MR HM BHAGAT for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 27/06/2000

ORAL JUDGEMENT

Rule. With the consent of the learned counsel for the parties, the matter is taken up for final disposal today.

2. In this petition under Article 226 of the Constitution, the petitioner has challenged the order

dated 9.7.1998 (Annexure "B") of the Collector, Sabarkantha, as confirmed by order dated 18.1.1999 (Annexure "C") of the Additional Director in the Department of Geology and Mines, Government of Gujarat in appeal No. 319/98, cancelling the quarry lease in favour of the petitioner on the ground that the petitioner had not paid the amount of Rs.32,952/- being the amount of interest upto June, 1998 on the amount of arrears of royalty.

3. There is no dispute about the fact that out of the outstanding amounts which are mentioned in the impugned order dated 9.7.1998 at Annexure "B" to the petition, the petitioner had paid the first three items i.e. Rs.11,232/- by way of royalty upto March, 1998, Rs.47,848/- by way of difference of total dead rent upto March, 1998 and Rs.800/- by way of surface rent upto March, 1998. The impugned orders came to be passed only because the petitioner had not paid the amount of interest upto June, 1998 i.e Rs.32,952/-.

4. While issuing notice, this Court had granted ad-interim direction against cancellation of lease subject to the condition that the petitioner paid the aforesaid amount of Rs.32,592/- in two instalments. In compliance with the said order, the petitioner paid Rs.20,000/- on 16.4.1999 and the balance amount of Rs.12,592/- on 5.5.1999.

The learned counsel for the respondents does not dispute the aforesaid statement and the petitioner has also produced photostat copies of the respective receipts.

5. In view of the above, it is clear that the infirmity which resulted into cancellation of the quarry lease has been cured by the petitioner and, therefore, the ground for cancellation of the lease would not survive. The impugned orders dated 9.7.1998 (Annexure "B") of the Collector, Sabarkantha and the order dated 18.1.1999 (Annexure "C") of the Additional Director in the Department of Geology and Mines, Government of Gujarat in appeal No. 319/98 are, therefore, quashed and set aside with a clarification that the petitioner shall continue to pay royalty, deed rent and surface rent in accordance with law for the subsequent period after March, 1998.

Rule is made accordingly absolute to the above extent. There shall be no order as to costs.

June 27, 2000 (M.S. Shah, J.)
sundar/-